

ERVIN COHEN & JESSUP PARTNER BARRY MACNAUGHTON LEADS LITIGATION TEAM TO “DAVID V. GOLIATH” VICTORY

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A Second Appellate District panel has affirmed a \$2.6 million verdict in their clients' favor

Ervin Cohen & Jessup Partner Barry J. MacNaughton recently led a litigation team to an appellate-affirmed victory in a classic “David v. Goliath” case over breach of contract claims.

Along with colleagues Allan B. Cooper and Amy S. Russell, Barry represented Instant InfoSystems Inc. – a midsize distributor of Internet-enabled fax machine services – in litigation against Open Text, Inc. InfoSystems sued in 2018 after Open Text terminated its agreement with the company and attempted to steal its customer base. Open Text promptly countersued.

Given the relative size of the two companies (InfoSystems is locally owned and operated, while Open Text is one of Canada’s largest employers, listed on the NASDAQ), the deck was stacked against Barry and his team. The team prevailed nonetheless, winning a jury verdict in their favor at trial and a net judgment of about \$2 million.

Los Angeles County Superior Court Judge Samantha P. Jessner ordered a new trial to address one aspect of the verdict, forcing the entire matter before a Second Appellate District panel on appeal. The result was an overwhelming victory for InfoSystems, as the panel overturned the trial judge’s grant of a new trial and additional damages, bringing the total verdict up to roughly \$2.6 million.

“It’s humbling anytime you receive the trust and approval of a jury. But when it’s appealed – and an appellate court affirms that jury’s finding – you feel truly righteous about your cause,” Barry said. “We thank the panel for coming to this conclusion.”

PROFESSIONALS

Allan B. Cooper
Barry J. MacNaughton
Amy S. Russell

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